

UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

1. STEVE GOLDSMITH, )  
vs. Plaintiff, )  
1. UNITED STATES, )  
Defendant. )  
Case No. 22-cv-36-JFH

**COMPLAINT**

Plaintiff, Steve Goldsmith (“Goldsmith”), for his complaint against the United States, alleges and states as follows:

**TORT CLAIM AGAINST THE GOVERNMENT**

1. Goldsmith is a Veteran pursuant to 38 U.S.C. § 101(2) and 38 C.F.R. § 3.1(d). Goldsmith resides in Tahlequah, Oklahoma.
2. The Department of Veterans Affairs (“VA”) - Veterans Health Administration (“VHA”), operates medical facilities that are mandated to provide medical treatment to veterans pursuant to its enabling act; codified as 38 U.S.C. §§ 7301 *et seq.*
3. The enabling act of the VHA contains 38 U.S.C. § 7316; which expands the Government Tort Claims Act, 28 U.S.C. §§ 1346 & 2672; to provide a Veteran with the right to file suit against the United States when an employee of the VA commits negligence or any other wrongful act.<sup>1</sup>

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<sup>1</sup> In *Ingram v. Faruque*, 723 F.3d 1239 (10<sup>th</sup> Cir. 2013), the Tenth Circuit explained how Congress enlarged the scope of the Government Tort Claims Act to encompass claims against VA employees for any wrongful act committed at a VA healthcare facility.

4. Jurisdiction over Goldsmith's claims is vested in this court under 28 U.S.C. §§ 1331 & 1346. Tahlequah is located in Cherokee County, which is in the Eastern District of Oklahoma. Accordingly, venue is appropriate in this court pursuant to 28 U.S.C. § 1402.

5. On May 31, 2021, Goldsmith submitted his Standard Form 95 to make his claim against the United States, to allege that VA hospital staff committed the unintentional tort of (1) negligence; along with the intentional torts of (2) intentional infliction of emotional distress; (3) defamation including (3a) slander and (3b) libel; (4) falsifying government documents by making false entries in Goldsmith's VA medical file; and (5) malicious abuse of power. In addition, Goldsmith claims that VA employees (6) deprived him of his Constitutional Right to Free Speech.

6. Goldsmith enclosed additional pages with the Standard Form 95 to explain:

A. The Muskogee, Oklahoma VA hospital wrongfully initiated a "Red Flag" procedure under which the VA ordered Goldsmith to undergo formal risk assessment for violence due to an allegation that he had been subject to "Red Flag" in Hawaii; even though Goldsmith never received any treatment in Hawaii.

B. The Texas Valley Coastal Bend VA Health Care System made a similar error, but the Texas VA conducted a "Network Director Review" and determined there was "no factual basis that the patient's behavior at a VA medical facility has jeopardized or could jeopardize the health or safety of other patients, VA staff, or guests at the facility, or otherwise interfere with delivery of safe medical care to another patient at the facility;" so the VA revoked the restrictions put in place in Texas.

C. The Muskogee VA hospital continued to wrongfully place limitations on Goldsmith's access to VA healthcare facilities

and VA healthcare personnel under its erroneous belief that Goldsmith continued to be under restriction in Texas. Moreover, Oklahoma VA officials wrote false information into Goldsmith's VA file, falsely saying he had sent pornographic materials to a recipient in the VA email system.

D. The Muskogee VA Patient Advocate wrote a false entry into Goldsmith's record, to falsely state Goldsmith made a complaint against his VA podiatrist even though Goldsmith never made such a complaint. Goldsmith described that the Patient Advocate's false statement defamed him, and it caused both a negligent and intentional infliction of emotional distress; and moreover, it damaged his doctor-patient relationship with a trusted medical provider.

7. On August 4, 2021, VA General Counsel's Office sent a letter to Goldsmith that denied Goldsmith's tort claims. The VA General Counsel letter also denied Goldsmith's Constitutional Claim.

WHEREFORE, premises considered, Plaintiff Steve Goldsmith prays for judgment against the United States, as follows:

1. For the for the intentional and unintentional torts, damages of \$250,000; and,
2. All additional relief that the Court deems just and equitable.

s/Robert C. Brown Jr.

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